

REMARKS

In this Amendment, Applicants have cancelled Claim 54 without prejudice or disclaimer and amended Claims 37 – 53. Claims 37 – 53 have been added to specify different embodiments of the present invention and overcome the rejection. It is respectfully submitted that no new matter has been introduced by the amended claims. Applicants reserve the right to reinstate or amended claims directed to amended or deleted subject matter in this or subsequent applications. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments.

REJECTIONS UNDER 35 U.S.C. § 112 FIRST PARAGRAPH:

Claim 54 has been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 37 – 48 and 51 – 54 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement description requirement. The claims allegedly contain subject matter which was not described in the specification in such a way as to enable one of skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicants respectfully traverse the rejections and it is respectfully submitted that the amended claims have overcome the rejection and satisfy the written description requirement and enablement requirement. More specifically, Claim 54 has been cancelled without prejudice or disclaimer. Therefore, the rejection to this claim is moot. In addition, Claims 37 – 48 and 51 – 53 have been amended by limiting the claims to an isolated host cell. The Examiner has recognized that the specification is “enabling for *in vitro* expression of the recombinant fusion polypeptide of the invention as in isolated host cell.” The amended claims clearly define that the fusion partner of the invention facilitates higher levels of *in vitro* expression of the non-TolA polypeptide (expression in an isolated host cell) compared with *in vitro* expression of the non-TolA polypeptide lacking

the fusion partner. Applicants respectfully submits that the claims as amended are enabled by the specification as originally filed and one skilled in the relevant art would understand that the inventors had possession of the claimed invention.

Therefore, the rejection under 35 U.S.C. § 112, first paragraph has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 112, first paragraph, is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 101:

Claims 37 – 54 have been rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

It is respectfully submitted that in view of the currently presented amendments, the rejection has been overcome. More specifically, Claim 54 has been cancelled without prejudice or disclaimer. Therefore, the rejection to this claim is moot. In addition, Claims 37 – 48 and 51 – 53 have been amended by including the term “isolated” to describe the recombinant fusion polypeptide. This term adequately indicates the invention of the inventor and distinguish the invention from any possible naturally occurring fusion polypeptides with the claimed feature.

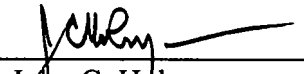
Therefore, the rejection under 35 U.S.C. § 101 has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 101 is respectfully requested.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

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